IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7759 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SARMAN VIRAMBHAI ZALA

Versus

STATE OF GUJARAT

Appearance:

MR MJ THAKORE for Petitioner

MR RJ OZA for Respondent No. 1

NOTICE SERVED for Respondent No. 2, 5, 6

MR SN SHELAT for Respondent No. 4

CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 10/11/2000

ORAL JUDGEMENT

The present petition is filed by the petitioner seeking a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, direction or

order and to direct the respondents to pay to the petitioner vacation salary and to pay all the arrears of vacation salary to the petitioner.

2. The facts giving rise to the present petition are that the petitioner was appointed as Full Time Lecturer in Political Science in M.N. College, Visnagar by Office Order dated 6.8.1982, with effect from 6.8.1982, which was a local appointment for the first term of the academic year 1982- 83. At the end of the said first term the petitioner was relieved by the order dated 6.11.1982. The petitioner was again appointed as a Full Time Lecturer in Political Science for the second term of the academic year 1982- 83 by Office Order dated 6.12.1983, valid for the second term of the academic year 1982- 83, as a local appointment. Again, the petitioner was relieved as a Full Time Lecturer at the end of the said term. Similar procedure was adopted for the academic year 1983- 84, i.e. appointing and relieving the petitioner by separate orders as a local appointment.

The petitioner addressed a letter to the Director of Higher Education on 29.12.1983 requesting him to make payment of vacation salary, but the petitioner got a reply that he is not entitled to the vacation salary.

3. The controversy raised in the petition is now in a very narrow compass. The respondents have filed an affidavit sworn by one Shri S.B. Dhobi, Joint Director, Office of the Commissioner of Higher Education, Gandhinagar, on 4.10.2000, wherein it is stated that the petitioner is entitled for vacation salary as admissible under the provisions of the Resolution dated 13.11.1967 issued by the Govt. of Gujarat, Education and Labour Department. It is stated in para 4.2 as under :

> "I say that the petitioner was appointed for the term of academic year 1982- 83 and the same was approved by the respondent no.2 vide an Office Order dt.26.10.82. I say that the petitioner had worked for a period from 6.8.82 to 6.11.82 and has served for a major part and is therefore entitled for vacation salary in light of condition no.7 of the appointment order dt.26.7.82 read with clause (1) of the Resolution dated 13.11.67."

So far as the vacation salary regarding academic year 1985- 86, it is stated in para 4.3 as under :

> "I say that so far as first and second term of

the academic year 1983- 84 is concerned the petitioner has worked from 15.6.83 to 22.10.83 and from 21.11.83 to 7.4.84 respectively and has served for the major part in both the terms and is therefore, entitled for vacation salary for the said two terms of the academic year 198384."

4. In view of the two averments as stated above it will satisfy to that extent and in view of the averments made in the affidavit in reply, the present petition is required to be allowed to that extent.

5. The respondents are directed to pay the petitioner the vacation salary for the vacation during the academic year 1984- 85 and 1985- 86 as mentioned in para 4.2 and para 4.3 of the affidavit in reply. Said amount shall be paid to the petitioner within the period of six weeks from the date of receipt of writ of this court.

6. The petition stands allowed to the aforesaid extent. Rule is made absolute accordingly with no order as to costs.

10th November 2000 (Ravi R. Tripathi, J.)

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